



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/057,963	01/29/2002	Ming-Chung Tang	SUND 256	3618

7590 06/07/2006

RABIN & CHAMPAGNE, P.C.
Suite 500
1101 14th Street, N.W.
Washington, DC 20005

EXAMINER

STERRETT, JONATHAN G

ART UNIT	PAPER NUMBER
----------	--------------

3623

DATE MAILED: 06/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/057,963

Applicant(s)

TANG ET AL.

Examiner

Jonathan G. Sterrett

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-76 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-76 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. **Claims 1-15 and 50-61**, drawn to **an apparatus for online scheduling**, classified in class 705, subclass 9.
- II. **Claims 16-20**, drawn to **a method for task look ahead substitutable checking**, classified in class 705, subclass 7.
- III. **Claims 21-31**, drawn to **a method for real time scheduling**, classified in class 705, subclass 9.
- IV. **Claims 32-49 and 62-76**, drawn to **a method of scheduling by regulating, selecting and evaluating**, classified in class 705 subclass 7, 9.

The Inventions are distinct, each from the other because of the following reasons:

2. **Group I to II**

Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as **an apparatus for online scheduling** and can be conducted without providing a **method for task look ahead substitutable checking**. Further one does not need to **provide a method for task look ahead substitutable checking** in order to provide an

apparatus for online scheduling. The subcombination has a separate utility such as **a method for task look ahead substitutable checking.** See MPEP § 806.05(d).

3. **Group I to III**

Inventions I and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as **an apparatus for online scheduling** and can be conducted without providing a **method for real time scheduling.** Further one does not need to provide a **method for real time scheduling** in order to provide **an apparatus for online scheduling.** The subcombination has a separate utility such as **a method for real time scheduling.** See MPEP § 806.05(d).

4. **Group II to III**

Inventions II and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention II has separate utility such as **a method for task look ahead substitutable checking,** and can be conducted without providing **a method for real time scheduling.** Further one does not need to provide **a method for real time scheduling** in order to provide **a method for task look ahead substitutable checking.** The subcombination has a separate utility such as **a method for real time scheduling.** See MPEP § 806.05(d).

5. **Group I to IV**

Inventions I and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as **an apparatus for online scheduling** and can be conducted without providing a **method of scheduling by regulating, selecting and evaluating**. Further one does not need to provide a **method of scheduling by regulating, selecting and evaluating** in order to provide **an apparatus for online scheduling**. The subcombination has a separate utility such as a **method of scheduling by regulating, selecting and evaluating**. See MPEP § 806.05(d).

6. **Group II to IV**

Inventions II and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention II has separate utility such as a **method for task look ahead substitutable checking** and can be conducted without providing a **method of scheduling by regulating, selecting and evaluating**. Further one does not need to provide a **method of scheduling by regulating, selecting and evaluating** in order to **provide a method for task look ahead substitutable checking**. The subcombination has a separate utility such as a **method of scheduling by regulating, selecting and evaluating**. See MPEP § 806.05(d).

7. **Group III to IV**

Inventions III and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention III has separate utility such as **a method for real time scheduling** and can be conducted without providing **a method of scheduling by regulating, selecting and evaluating**. Further one does not need to provide **a method of scheduling by regulating, selecting and evaluating** in order to provide **a method for real time scheduling**. The subcombination has a separate utility such as **a method scheduling by regulating, selecting and evaluating**. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and the search required for each of the Groups I, II and III is not required for each of the other groups (i.e., I, II), restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan G. Sterrett whose telephone number is 571-272-6881. The examiner can normally be reached on 8-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 571-272-6729.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

Application/Control Number: 10/057,963

Page 7

Art Unit: 3623

you have questions on access to the Private PAIR system, contact the Electronic
Business Center (EBC) at 866-217-9197 (toll-free).

JGS

JGS 5-27-2006

Susanna Diaz
SUSANNA M. DIAZ
PRIMARY EXAMINER

AU 3623